

## **LAND AND BUILDINGS TRANSACTION TAX (LBTT) – UPDATE JUNE 2013**

The Scottish Government's *Consultation on Tax Management* closed on 12 April 2013. The Land and Buildings Transaction Tax (Scotland) bill is currently working through the final stages of parliamentary scrutiny which will likely be completed towards the end of this month. Accordingly it is looking very likely that the Bill will be enacted to result in the first tax applying solely to Scotland for more than 300 years.

The new property tax LBTT will apply from April 2015 when the Scottish Parliament is given control over such matters. Finance Secretary John Swinney has stated that rates for the new tax will not be announced until September 2014 at the earliest.

Uncertainty over the rates applicable to commercial property are not of assistance to a sector which is already under considerable pressure with lack of development and investment activity. It is essential that transaction costs north of the border are at least on parity with those applicable in England and Wales. Otherwise developers and investors will be discouraged from taking on property projects within Scotland.

SDLT on commercial leases is a very complex area and still under consideration by the Scottish Government. It is important that consideration is given to declining activity within our high streets and the need to incentivise retailers and other businesses to take on new leases.

Clarity is required as to the roles and responsibilities of the two organisations which will be involved in the new tax, namely Revenue Scotland and Registers of Scotland. The former would be set up to ensure management of the devolved taxes and the latter will deal with collection of LBTT.

The most striking difference for LBTT compared with SDLT is that the tax will be progressive. In other words LBTT will apply at the rates (still to be fixed) up to each threshold with the higher rates applying to the balance of consideration above these thresholds.

Consultees such as the Scottish Property Federation have made it clear that "it is imperative that we achieve a competitive tax rate that is attractive to major investors, businesses and developers in commercial buildings ..."

Consultees have further suggested that LBTT should apply to the consideration for the transaction before VAT is applied (not after). The current approach for SDLT being charged on the VAT element has been regarded by many as double taxation and intrinsically unfair.

Most recently John Swinney has expressed opposition to proposed amendments to LBTT which would link the rate at which the tax is set to energy efficiency of the

property in question. Such complexity is not welcome. Most property practitioners desire that this first tax brought in by the Scottish Parliament is simple, and effective and, most of all, promotes property activity in Scotland.